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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,504

05/01/2006

Werner Boltshauser

37960-000108/US

5927

30593

7590

10/14/2009

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EXAMINER

JONES, DAVID B

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

10/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,504	<b>Applicant(s)</b> BOLTSHAUSER, WERNER	
	<b>Examiner</b> David B. Jones	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-15 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/15/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Applicant's election with traverse of Group I, claims 1-6 and 16-19 in the reply filed on 6/30/2009 is acknowledged. The traversal is on the ground that the restriction requirement fails to follow the rules of practice for PCT National stage applications. This is not found persuasive because the restriction does follow the rules for PCT National stage applications. The instant restriction mirrors the verbiage in the restriction made in the international stage application, CH2004/000004, and was done so to maintain uniformity between the application. There is no technical relationship within the meaning of PCT rule 13.1 between the technical features of these groups of claims or between the problems solved thereby. Consequently, the groups of claims lack unity of invention, with regard to special technical feature. Each of the groups of claims has a film recited but that does not make for a special technical feature which would link the groups together with the meaning of PCT 13.1. The requirement is still deemed proper and is therefore made FINAL.
2. Claims 1-6 and 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims as a whole have limitations which lack clear antecedent basis. In claim 1, line 8, "the overlapping area" and "the interengaging film areas" lack clear antecedent basis. In claim 2, line 2, "the cylindrical closed film piece" lacks antecedent basis. On lines 4 and 5 of claim 2, the limitation, "engaged at least in part by at least one shrinking procedure" is indefinite and fails to

Art Unit: 3725

clearly set forth the intended structure. How does a "procedure" engages the can body?

In claim 3, line 1/2, "the interengaging film areas" and "the overlapping area" lacks antecedent basis. On lines 3 and 4 of claim 3, the limitations "the exterior" and "the overlapping area" lacks antecedent basis. In claim 4, line 2, "a support being achieved" is indefinite and unclear in nature. On line 4 of claim 4, the limitation, "one of broader than the overlapping area" is not understood and renders the claim indefinite. In claim 5, lines 2 and 3, "the sealing connection", "the overlapping area", and "the closed film envelope" lack antecedent basis in the claim. On line 4/5 there appears to be missing verbiage between "in" and "axial". In claim 6, line 2, "the connection procedure" lacks antecedent basis. On lines 3/4 of claim 6, the limitation, "a partial area of the film piece" is unclear and indefinite in nature. In claim 18, line 1/2, "the interengaging film areas" and "the overlapping area" lack clear antecedent basis. On lines 3/4 of claim 18, "the exterior", "the overlapping area", and "the heat" lacks antecedent basis. In claim 19, "said film envelope" lacks antecedent basis.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Jones whose telephone number is 571 272 4518.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross, can be reached at 571 272 4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/David B. Jones/  
Primary Examiner  
Art Unit 3725